

7/28/10

AUGUST 5, 2010 SPECIAL COUNCIL  
Continued from 7/13/10

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TO: TOWN COUNCIL

FROM: TOWN MANAGER



RE: BALLOT ARGUMENT OPPOSING TERM LIMIT INITIATIVE ON NOVEMBER  
ELECTION

**ISSUE**

Mayor Liss asks that Council approve submitting to County Elections a ballot argument opposing the term limit initiative that will be voted on in the November 2010 election.

**RECOMMENDATION**

Discuss and determine a course of action including possibly approving ballot language opposing the term limit initiative.

**CEQA**

There are no CEQA issues in opposing or supporting ballot measures.

**MONEY**

There is no direct cost to the Town in opposing or supporting a term limit ballot measure.

**DISCUSSION**

Loomis citizens in support of Town Council term limits qualified a ballot measure (through the initiative process) that Council agreed to put on the November 2010 election. The initiative, if approved by the Town voters, would change the Municipal Code as follows:

Section 1. Section 2.04.012 is added to the Loomis Municipal Code as follows:

"2.04.012 Elections, powers and terms of office.  
The electorate shall elect a council of five at large members for a four-year term of office. The council shall constitute the legislative and governing body of the town and shall have the authority to duly exercise all powers of the town, and to adopt such ordinances and resolutions as may be proper in the exercise thereof. Two and three council members shall be elected alternately at the general municipal election each even number year. No council

member shall serve more than two consecutive four year terms. Any council member, who has served two consecutive four year terms as of August 1, 2010 shall be ineligible to serve as a council member again until eight years have passed since the last four year term was served. Council members who are currently in office at the time this section takes effect, shall be able to complete their remaining term."

At the July 13, 2010 meeting the Council approved (4/1 Kelley voting no) submitting a ballot measure argument opposing term limits. In doing so, the argument cannot exceed 300 words and must be submitted to County Elections by August 6, 2010 to be included in the voter pamphlet.

Mayor Liss, Council Member Ucovich, the Town Attorney and I worked on draft argument language opposing the term limit initiative on the November ballot. If Council wishes to take a position opposing that initiative, then one or a combination of these drafts may be helpful in crafting a response. Following are the drafts, in no priority order, developed at this writing.

**OPTION A****TERM LIMIT OPPOSITION LANGUAGE**

Term limits is a poor idea because it limits the choices that the voting citizens of Loomis have to choose their own representatives. Much has been written about term limits but before you vote ask yourself the question: Do I want to limit my choice as to who I can elect to serve me and carry out my interests to better the Loomis community? Of course you know that:

- term limits remove good and bad council members
- term limits result in the loss of knowledge and experience in office and can jeopardize Town government business with County, State and Federal agencies
- term limits increase the power of those working in bureaucracies and as lobbyists because those people do not have term limits
- term limits do not lower taxes, reduce spending or result in smaller government

We know these facts concerning term limits too and we find, and ask you to join us in finding, that we should not have our choices limited. We should be able to pick the best people in Loomis and have them work for us as long as they are willing and able. We should be able to vote people in and vote people out on our terms and not because of term limits. Please join us in voting NO on term limits.

**OPTION B****TERM LIMIT OPPOSITION LANGUAGE LISS DRAFT**

Term limits is a poor idea because it limits the choices that the voting citizens of Loomis have to choose their own representatives. Much has been written about term limits but before you vote ask yourself the question: Do I want to limit my choice as to who I can elect to serve me and carry out my interests to better the Loomis community? Of course you know that:

- term limits remove good and bad Council members
- term limits result in the loss of knowledge and experience in office and can jeopardize Town government business with County, State and Federal agencies
- term limits increase the power of staff and lobbyists because those people do not have term limits
- term limits do not lower taxes, reduce spending or result in smaller government

In Loomis, this measure will not allow Walt Scherer, Miguel Ucovich or Rhonda Morillas to continue as Council Members, until they have been off the Council for 8 years. This measure was clearly targeted at removing these members. If this term limits measure is adopted in 2010, the Walt Scherer and Miguel Ucovich will not be able to serve again, even if they receive the most votes in this 2010 election.

We ask you to decide that voters should not voting choices limited by arbitrary rules. We should be able to vote people in and vote people out on our terms and not because of term limits. We should be able to pick the best people in Loomis and have them work for us as long as they are willing and we vote them in. Please vote NO on term limits. If you want to discuss this with a Council Member, please contact us at:  
<http://www.loomis.ca.gov/TCmbrs.html>

**OPTION C (the change from Option A is in the 3<sup>rd</sup> bullet point)****TERM LIMIT OPPOSITION LANGUAGE**

Term limits is a poor idea because it limits the choices that the voting citizens of Loomis have to choose their own representatives. Much has been written about term limits but before you vote ask yourself the question: Do I want to limit my choice as to who I can elect to serve me and carry out my interests to better the Loomis community? Of course you know that:

- term limits remove good and bad council members
- term limits result in the loss of knowledge and experience in office and can jeopardize Town government business with County, State and Federal agencies
- term limits increase the power of special interests because those people do not have term limits
- term limits do not lower taxes, reduce spending or result in smaller government

We know these facts concerning term limits too and we find, and ask you to join us in finding, that we should not have our choices limited. We should be able to pick the best people in Loomis and have them work for us as long as they are willing and able. We should be able to vote people in and vote people out on our terms and not because of term limits. Please join us in voting NO on term limits.

The Town Attorney noted the following points in a conversation he had with Mayor Liss.

- 1) Term limits have failed on the state level as entrenched interests have gained ground rather than lost ground because they know the system better than the newbees.
- 2) Term limits remove the possibility of electing someone for consecutive terms beyond the limit despite the voters' will.
- 3) It is not necessarily true that term limits must be imposed to attract new blood.
- 4) This particular measure is punitive because termed out council members would not be able to run again for eight years.
- 5) The measure is targeted at Walt, Miguel and Rhonda.

The Town Attorney also provided the following information concerning the legal process of making ballot arguments.

First, in terms of the argument and rebuttal, the rules for arguments and rebuttals concerning ballot measures for city elections are reprinted below. Recognize that the rules are different for an initiative filed by petition than for one placed on the ballot by council.

Note that the underlined parts of Elections Code § 9282(a) and 9282(e), below, make it clear that only the city and initiative proponents can file arguments in our present case, not other groups or individuals, because the term limits measure was initiated by petition.

As far as when people can receive a copy of others' arguments, the County is taking the position that arguments are "secret" until the August 6<sup>th</sup> deadline, after which there will be a limited time for rebuttals to be prepared. That doesn't seem jibe with the underlined portion of § 9285, below, which says that once the election official receives an argument to be placed on the ballot he or she shall immediately make a copy available to the opponents. County staff argues that until the Aug 6<sup>th</sup> deadline, arguments may be changed so should not be considered final and subject to immediate public release. They also argue that if there are more than two arguments submitted, no one will know which arguments have been selected for publication pursuant to § 9287, below, until the Aug. 6<sup>th</sup> deadline.

In our present case, however, only the arguments prepared by the proponents and the council are allowed to be placed on the ballot, and it does not seem logical to interpret this subject language as prohibiting the sharing of arguments simply because they may be amended, especially in light of the apparent intent of the overall language to the effect that arguments should be shared "immediately." Crickett has confirmed that Roseville agrees with our interpretation, and is posting measurement arguments for all to see, as soon as the arguments are turned into city hall.

Just to be clear, the law contemplates that each of the two authors (the council and the proponents) may do two things: (1) file an argument; and (2) file a rebuttal. Even so, it looks to me like the intent of the law is that these parties are entitled to see their opponent's argument as soon as possible.

**⇒§ 9282. Written arguments for and against ballot measures**

(a) For measures placed on the ballot by petition, the persons filing an initiative petition pursuant to this article may file a written argument in favor of the ordinance, and the legislative body may submit an argument against the ordinance.

(b) For measures placed on the ballot by the legislative body, the legislative body, or any member or members of the legislative body authorized by that body, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations, may file a written argument for or against any city measure.

(c) No argument shall exceed 300 words in length.

(d) The city elections official shall include the following statement on the front cover, or if none, on the heading of the first page, of the printed arguments:

"Arguments in support or opposition of the proposed laws are the opinions of the authors."

(e) The city elections official shall enclose a printed copy of both arguments with each sample ballot; provided, that only those arguments filed pursuant to this section shall be printed and enclosed with the sample ballot. The printed arguments are "official matter" within the meaning of Section 13303.

(f) Printed arguments submitted to voters in accordance with this section shall be titled either "Argument In Favor Of Measure \_\_\_\_" or "Argument Against Measure \_\_\_\_," accordingly, the blank spaces being filled in only with the letter or number, if any, designating the measure. At the discretion of the elections official, the word "Proposition" may be substituted for the word "Measure" in these titles.

**⇒§ 9283. Names and signatures of authors submitting; maximum number**

A ballot argument may not be accepted under this article unless accompanied by the printed name and signature or printed names and signatures of the author or authors submitting it, or, if submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers who is the author of the argument. No more than five signatures shall appear with any argument submitted under this article. In case any argument is signed by more than five authors, the signatures of the first five shall be printed.

**⇒§ 9285. Sending copies of arguments in favor of and against propositions; rebuttal arguments**

(a)(1) When an elections official receives an argument relating to a city measure that will be printed in the ballot pamphlet, the elections official shall send a copy of an argument in favor of the proposition to the authors of any argument against the measure and a copy of an argument against the measure to the authors of any argument in favor of the measure immediately upon receiving the arguments.

(2) The author or a majority of the authors of an argument relating to a city measure may prepare and

submit a rebuttal argument or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument.

(3) No rebuttal argument may exceed 250 words.

(4) A rebuttal argument relating to a city measure shall be filed with the elections official no later than 10 days after the final filing date for primary arguments.

(5) A rebuttal argument relating to a city measure may not be signed by more than five persons and shall be printed in the same manner as a direct argument and shall immediately follow the direct argument which it seeks to rebut.

(b) Subdivision (a) applies only if, not later than the day on which the legislative body calls an election, the legislative body adopts its provisions by majority vote, in which case subdivision (a) applies at the next ensuing municipal election and at each municipal election thereafter, unless later repealed by the legislative body in accordance with the procedures of this subdivision.

**§ 9287. Submission of multiple arguments; selection for printing and distribution; preferences**

If more than one argument for or more than one argument against any city measure is submitted to the city elections official within the time prescribed, he or she shall select one of the arguments in favor and one of the arguments against the measure for printing and distribution to the voters. In selecting the argument the city elections official shall give preference and priority, in the order named, to the arguments of the following:

(a) The legislative body, or member or members of the legislative body authorized by that body.

(b) The individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.

(c) Bona fide associations of citizens.

(d) Individual voters who are eligible to vote on the measure.

(2) The author or a majority of the authors of an argument relating to a city measure may prepare and submit a rebuttal argument or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument.

(3) No rebuttal argument may exceed 250 words.

(4) A rebuttal argument relating to a city measure shall be filed with the elections official no later than 10 days after the final filing date for primary arguments.

(5) A rebuttal argument relating to a city measure may not be signed by more than five persons and shall be printed in the same manner as a direct argument and shall immediately follow the direct argument which it seeks to rebut.

(b) Subdivision (a) applies only if, not later than the day on which the legislative body calls an election, the legislative body adopts its provisions by majority vote, in which case subdivision (a) applies at the next ensuing municipal election and at each municipal election thereafter, unless later repealed by the legislative body in accordance with the procedures of this subdivision.